# Regulations CP

## 1NC

### 1NC – DeGrazia

#### Counterplan text: The United States federal government should require universal background checks and rigorous safety courses for gun owners, ban assault weapons and high-capacity magazine clips, standardize safety features on all guns, require tracing mechanisms on guns, increase ATF's jurisdiction over guns, and restore funding to the CDC for gun violence research.

DeGrazia 14 clarifies David (Professor of Philosophy at George Washington University) “The Case for Moderate Gun Control” Kennedy Institute of Ethics Journal Vol. 24, No. 1, 1–25 2014)

I will defend considerably more gun control than currently exists. The term “gun control,” as I understand it, refers to laws and policies designed to restrict the manufacture, sale, purchase, possession, storage, transfer, or use of firearms and/or associated ammunition. For convenience, I will consider various gun control measures, defined in this way, along with related political measures. In particular, I will defend the following as additions to the minimal regulations that constitute the legal status quo: (1) universal background checks; (2) a ban on assault weapons and high-capacity magazine clips; (3) the requirement of a license for all new gun owners, contingent upon passing a rigorous safety course; (4) safe storage requirements and required safety features on all guns; (5) tracing mechanisms on all guns and a national database of gun sales and gun owners; (6) “de-crippling” of the Bureau of Alcohol, Tobacco, and Firearms (ATF); and (7) restoration of funding to the Centers for Disease Control and Prevention (CDC) to study the relationships among gun ownership, specific gun regulations, and gun violence. Although it will clearly stretch the meaning of “gun control” to include (6) and (7) under the rubric of this term, for the purposes of this paper it will be convenient to do so.

#### Counterplan solves better and faster than the aff

DeGrazia 14 – bracketed for ableist language (Professor of Philosophy at George Washington University) “The Case for Moderate Gun Control” Kennedy Institute of Ethics Journal Vol. 24, No. 1, 1–25 2014)

Universal background checks.20 The purpose of this measure is to ensure that people who ought to be ineligible to buy guns—including felons, fugitives from justice, and the seriously mentally ill—cannot purchase them from friends, associates, or non-licensed dealers at gun shows or online. Successful exclusion of these individuals from gun purchases obviously promotes safety in exactly the same way that currently mandatory background checks (for sales by licensed dealers) do. Like most of the other measures proposed here, this one would be prospective—applying only to transactions that take place after passage of the relevant law. There would be no practical way of trying to enforce background checks on sales made prior to that time. Ban on assault weapons and high-capacity magazine clips. These weapons and this ammunition are extremely dangerous and unnecessary for the legitimate purposes of household defense and hunting. They have enabled some of the worst rampages in recent American history. The purpose of the ban is to reduce the chances of massacres such as those that took place at Columbine High School, the Aurora, Colorado, movie theatre, and the Newtown, Connecticut, elementary school. This ban, too, should be prospective—although it could be coupled with a voluntary buy-back program of assault weapons and high-capacity clips in circulation. Because such a buy-back program would be voluntary, it could not be accused of restricting anyone’s liberty, much less of violating anyone’s rights. Requirement of a license for all new gun owners, contingent upon passing a rigorous safety course. The United States has long required prospective drivers to obtain a license before being permitted to drive an automobile. Obtaining the license is contingent upon passing a driving test and a written test, after considerable hours of practice, where the tests are designed to assess basic competence. Although prospective drivers are inconvenienced by these requirements, everyone is safer because of them. In a similar way, everyone would be safer if prospective gun owners had to take a course and pass a test designed to assess basic competence with the storage and use of firearms.21 The right to bear arms is not a right to do so without restrictions, and this particular restriction is reasonably related to household and public safety. This measure, too, would be prospective, applying only to those who purchase guns after the new law was in effect. As far as I can see, there would be no reason not to apply the requirement to individuals who had obtained guns prior to the law’s passage but wish to purchase more guns after that time. The purpose of the regulation would be to reduce the chances of accidental killings and injuries. Safe storage requirements and required safety features (e.g., child-proof locks) on all guns. The purpose of these closely related requirements, which can remain vague for the purposes of this paper, is to reduce the chances that a child will be able to commandeer and fire a gun. The storage requirements would be both prospective and retrospective in that they would apply to all guns no matter when they were purchased. The required safety features would apply only to guns manufactured after a legally determined date. Effective tracing mechanisms on all guns and a national database of gun sales and gun owners. The purpose of these measures is to facilitate law enforcement and thereby public safety. This includes the fighting of illegaltraffic in firearms and the prosecution of those who fail to conduct, or ignore the results of, background checks. Tracing mechanisms—preferably less easily expunged than ordinary serial numbers—would be required of all guns manufactured in the United States after a specified date; after a possibly later date, all guns bought or sold in the US (even if manufactured in another country) would have to have this feature. All new gun owners, following passage of the relevant law, must be registered in a national database, a measure that should be relatively easy to implement given the universal licensing requirement. “Decrippling” of ATF. The NRA-sponsored budgetary and leadership ~~crippling~~ [weakening] of the ATF (Horwitz and Grimaldi 2010; Higham et al. 2012; O’Keefe and Rucker 2013) should be reversed so that the bureau can have adequate staff and resources to do its job.22 The ATF should be freed of NRA-sponsored restrictions that have interfered unreasonably with law enforcement. For example, the law that prevents information about guns found at crime scenes from being made publicly available should be reversed. If, for example, drug lords or Mafiosi have been illegally obtaining and using guns obtained from a particular dealer in Ohio or Texas, it should be possible for both ATF officials and the public to learn about the pattern. ATF inspectors should not be restricted to one visit to gun dealers per year and should not bear an unreasonable burden of proof to revoke licenses. The purpose of these changes would be to strengthen law enforcement and thereby promote public safety. Restoration of funding to the CDC to study the relationships among gun ownership, specific gun regulations, and gun violence. Consider this remarkably direct statement about the NRA’s impact on the CDC through a co-opted Congressman: From 1986 to 1996, [the CDC] sponsored high-quality, peer-reviewed research into the underlying causes of gun violence. People who kept guns in their homes did not—despite their hopes—gain protection. . . . Instead, residents in homes with a gun faced a 2.7-fold greater risk of homicide and a 4.8-fold greater risk of suicide. The National Rifle Association moved to suppress the dissemination of these results and to block funding of future government research into the causes of firearm injuries. One of us served as the NRA’s point person in Congress and submitted an amendment to an appropriations bill that removed $2.6 million from the CDC’s budget, the amount the agency’s injury center had spent on firearmsrelated research the previous year. (Dickey and Rosenberg 2012) The purpose of the present measure would be to enhance public understanding of gun ownership, its risks, the effects of particular gun regulations, and the advantages of taking safety requirements and other appropriate regulations seriously.

### 1NC – Webster

#### Counterplan text: The United States federal government should require background checks for all gun sales, prohibit gun trafficking, and limit the availability of military-style weapons and high- capacity magazines.

Webster 13 [Daniel Webster, Jon Vernick, "Reducing Gun Violence in America," Center for Gun Policy and Research, Johns Hopkins Bloomberg School of Public Health, 2013] AZ

First and most urgently, we need the president and Congress together to require background checks for all gun sales, including private sales at gun shows and online. These private sales now account for more than 40 percent of all gun sales nationally, which means that in 2012 alone, there were more than six million gun sales that happened with no background checks. Many of those guns are handguns, which are used in about 90 percent of all firearms murders. Across the United States, more than 80 percent of gun owners, and more than 90 percent of Americans, support requiring background checks for all gun sales. There’s really no debate here. It’s common sense. We have laws on the books that require a background check when dealers sell guns. It’s time for the president and Congress to make that the law of the land for all sales. The forty percent to which the law does not apply means the law is basically a sham. Second, Congress should make gun trafficking a federal crime. In New York City, 85 percent of the weapons that we recover from crime scenes come from out- of- state sources, but federal laws designed to curb illegal sales across borders are incredibly weak. Criminals who traffic in guns get a slap on the wrist. We’ve made New York the safest big city in the nation, in part by adopting tough gun laws and proactively enforcing them. Every state in the Union has citizens killed by guns coming from other another state, and every state is powerless to stop the mayhem. Until Congress gets tough on trafficking, guns will continue flowing to our streets from states with much looser gun laws. The third legislative mea sure that the White House should support is limiting the availability of military- style weapons and of high- capacity magazines with more than 10 rounds. These guns and equipment are not designed for sport or home defense. They are designed to kill large numbers of people quickly. That’s the only purpose they have. They belong on the battlefield, in the hands of our brave professionally trained soldiers, not on the streets of our cities, suburbs, or rural areas, as retired military leaders like Colin Powell and Stanley McChrystal have said.

#### Solvency -- Only restrictive solutions that stop short of a ban ensure the most optimal outcomes

Hsiao 15 Timothy Hsiao (professor of philosophy at Florida State University). “Against Gun Bans and Restrictive Licensing.” Essays in Philosophy, Vol. 16, No. 2. July 7th, 2015. http://commons.pacificu.edu/cgi/viewcontent.cgi?article=1531&context=eip [Premier, Premier Debate Today, Sign-Up Now]

Again, suppose that gun ownership under permissive laws leads to an overall net increase in social harms. The key word here is ‘net.’ Even though guns may lead to more overall social harm, there remain certain persons for whom gun ownership would be effective at stopping or preventing crime. Saying that gun ownership increases overall harm does not tell us who would benefit from gun ownership and who wouldn’t. Since we want a gun policy that maximizes their benefits and minimizes their harms, it would be overreaching and reckless to ban guns for everyone without first attempting to implement a less restrictive solution that preserves their benefits. In other words, the proper response is not to ban guns, but to develop a system restrictive enough so that it minimizes the social harms of guns, but that at the same time is also permissive enough so that it maximizes the benefits provided by guns by allowing only competent persons to own them. We want a system that can reliably keep guns out of the ‘wrong’ hands while allowing the ‘right’ hands to own them. By jumping straight to the most restrictive method without considering other potentially viable solutions that fall short of a ban, Dixon’s utilitarian argument for a handgun ban actually runs counter to utilitarian reasoning. What is needed is an argument that a ban is preferable over other less restrictive solutions, which Dixon does not provide. Consider other risky activities that the state does not ban wholesale, even though the harms seemingly outweigh the benefits. Excessive alcohol consumption, for instance, is associated with more than 88,000 deaths annually.xi Yet the state does not ban alcohol, even though the health benefits of alcohol consumption are relatively minor when compared to the lives saved by using guns in self-defense. Instead, the state enacts measures so as to minimize the irresponsible consumption of alcohol while simultaneously recognizing the rights of those who can responsibly consume alcohol by allowing qualified persons to imbibe. A complete ban on alcohol may, we suppose, achieve the end of harm-reduction, but such a policy needlessly eliminates the many social benefits associated with alcohol. If such a policy is justified with respect to alcohol, then it is all the more justified when it comes to gun ownership, especially given the substantial benefits of guns considered earlier. Hence, an outright ban should not be our immediate recourse, since it focuses only on minimizing harms and ignores benefits completely. While an outright ban may have a positive effect on overall crime reduction, it inherently excludes many individuals for which gun ownership would otherwise be beneficial. A gun policy that focuses on minimizing gun-related harm and maximizing gun-related benefits is likely to have a stronger effect at crime reduction than just a policy that focuses only on minimizing gunrelated harms. This is true even if a ban is in everyone’s interest and even if all guns are removed from criminals. Although a total ban may decrease or completely eliminate malicious usage of guns, it is plausible to suppose that there will still be many situations in which guns are necessary for resisting crime, such as those involving significant disparities in force and physical ability. Given the substantial benefits that guns provide in resisting crime, there ought to be provisions under which certain citizens can acquire guns for self-protection.

### Solves Gun Control

#### Moderate restrictions on guns can create shifts in culture – guns are not linked to gun culture

Bachmann 12 [Helena Bachmann (reporter for Time), "The Swiss Difference: A Gun Culture That Works," TIME Magazine, 10/20/2012] AZ

One of the reasons the crime rate in Switzerland is low despite the prevalence of weapons — and also why the Swiss mentality can’t be transposed to the current American reality — is the culture of responsibility and safety that is anchored in society and passed from generation to generation. Kids as young as 12 belong to gun groups in their local communities, where they learn sharpshooting. The Swiss Shooting Sports Association runs about 3,000 clubs and has 150,000 members, including a youth section. Many members keep their guns and ammunition at home, while others choose to leave them at the club. And yet, despite such easy access to pistols and rifles, “no members have ever used their guns for criminal purposes,” says Max Flueckiger, the association’s spokesperson. “Social conditions are fundamental in deterring crime,” says Peter Squires, professor of criminology and public policy at the University of Brighton in Great Britain, who has studied gun violence in different countries and concluded that a “culture of support” rather than focus on individualism, can deter mass killings. “If people have a responsible, disciplined and organized introduction into an activity like shooting, there will be less risk of gun violence,” he tells TIME. That sense of social and civic responsibility is one of the reasons the Swiss have never allowed their guns to come under fire.

#### The counterplan solves – Israel's gun culture is good and responsible

Leibovitz 12 [Liel Leibovitz (Israeli-American journalist, author, media critic and video game scholar, Ph.D. from Columbia University), "WHY ISRAEL HAS NO NEWTOWNS," Tablet Magazine, 12/17/2012] AZ

If the United States, itself awash with weapons, wishes to benefit from Israel’s experience, it must make sure it learns the right lessons. The first and most universal one is that ever more stringent gun control is bad policy: As is the case with drugs, as was the case with liquor during Prohibition, the strict banning of anything does little but push the market underground into the hands of criminals and thugs. Rather than spend fortunes and ruin lives in a futile attempt to eradicate every last trigger in America, we would do well to follow Israel’s example and educate gun owners about their rights and responsibilities, so as to foster a culture of sensible and mindful gun ownership. This is possible even in a society that doesn’t send each and every one of its sons and daughters to the army. One of my earliest memories involves waving a toy gun around, playfully pointing it at my father; I was 5 or 6 years old, and thought the whole thing great fun. My father, however, was unamused. Sternly, he looked at me and told me I should never point a gun at anything I didn’t truly intend to kill. The lesson stuck. Later in life, he took me shooting, drilling into me the fundamentals of gun safety from a very young age. He was hardly alone in taking such an attitude. Go to any shooting range in Israel, as a soldier or a civilian, and the instructor is likely to talk about responsibility even before he or she begin to cover the basics of shooting. Those of us who are passionate about firearms should pursue the same path. I was dismayed to observe the National Rifle Association, an organization to which I belong, remain silent in the aftermath of the Newtown massacre; any organization that takes gun ownership seriously should dedicate itself not only to rights but to duties as well and provide its members with the resources to teach themselves and their children the same lessons my father taught me. The NRA should have been the first to vehemently condemn the shooting. Then they should have used the plethora of platforms at their disposal—including three magazines and a robust presence on social media—to assert the values that unite the many of us who are responsible and mature gun owners and who spend just as much time thinking about a gun’s tremendous potential for destruction as they do thinking about its muzzle velocity. Finally, there’s one more crucial, and tragically ignored, point to consider. In the aftermath of Friday’s shooting, a mother named Liza Long wrote a [powerful essay](http://thebluereview.org/i-am-adam-lanzas-mother/) in which she recounted the difficulties of raising her mentally ill son. A brilliant child, he is nonetheless prone to occasional fits of rage and violence. When she looked at the shooter this past Friday, Long felt a chilling sense of recognition. “I am sharing this story because I am Adam Lanza’s mother,” she wrote. “I am Dylan Klebold’s and Eric Harris’s mother. I am James Holmes’s mother. I am Jared Loughner’s mother. I am Seung-Hui Cho’s mother. And these boys—and their mothers—need help. In the wake of another horrific national tragedy, it’s easy to talk about guns. But it’s time to talk about mental illness.” Amen to that. In Israel, still a somewhat socialist country, mental health services are ready available, for free, to anyone. And because so many young Israelis undergo traumatic experiences in the course of their military service, a whole host of nonprofit organizations are on hand to provide counseling and treatment. We must do the same. Rather than pretend that it was the objects in their hands rather than the afflictions in their minds that led Lanza and Holmes and Cho and the others to perpetrate their monstrosities, we should offer help to those young men and their families. We have no more compassionate route, and no greater hope for peace.

### Solves Elections

#### Background checks will win dems especially Clinton the elections - its popular across the nation

Frizell 11/6 [Sam Frizell - reporter for TIME Magazine: “The NRA Quietly Backs Down On Domestic Violence” TIME 11/6/15; http://time.com/4101947/hillary-clinton-guns-democrats/]IG 12/13/15

“Democrats are starting to believe that a strong statement on gun control will motivate the base and not cost them in purple states,” said Adam Winkler, a professor of constitutional law at UCLA. “That is a totally different electoral calculation than they were making even four years ago.”

Clinton has called for an array of gun control measures, including holding gun manufacturers liable for gun violence, closing a loophole that allows gun sales to proceed after three days if a background check is not completed in that time and taking administrative action to require background checks at guns shows and gun stores. This week, her campaign released an ad calling for gun control measures.

“We need to close the loopholes and support universal background checks,” she said. “How many people have to die before we actually act?”

Polls show that the core of Clinton’s gun control push—universal background checks—is widely supported. Nationally, nearly 90% of Americans support universal background checks, according to multiple polls. Voters in key general election swing states appear to agree with Clinton, too. In Ohio, a 2013 Mayors Against Illegal Guns-funded poll showed that 83% supported all gun buyers to pass criminal background checks. In Florida, Public Policy Polling in September showed that 88% supported background checks.

“There is a significant swath of swing voters who support background checks and other gun safety, and who take it as a sign that someone is out of the mainstream if they oppose universal background checks**,”** said Geoff Garin, a pollster for Clinton’s 2008 campaign now with her super PAC, Priorities USA Action. **“**Opposing common-sense gun safety laws either means that someone is too extreme or too much in the pocket of the gun lobby.”

### Avoids Politics

#### **CP a net benefit to politics—92% of Americans favor gun control measures but only 25% support the aff. This also takes out their “Obama’s recent XO thumps” argument.**

Bialik 16 [Carl Bialik, Most Americans Agree With Obama That More Gun Buyers Should Get Background Checks, FiveThirtyEight, 1-5-2016, Accessible Online at http://fivethirtyeight.com/features/most-americans-agree-with-obama-that-more-gun-buyers-should-get-background-checks/] SW 1-17-2016

In dozens of polls over the past two decades, Americans have been asked if they support expanding background checks for the purchase of firearms. Background checks are run to prevent sales to people who have been convicted of certain crimes, who are running from the law or who otherwise have been banned from buying guns for a variety of other reasons. The specifics of the question have varied — sometimes asking about the Brady Bill, the 1993 law that required background checks for purchases from licensed dealers; sometimes about circumstances for which federal law doesn’t currently require checks, such as sales from unlicensed sellers or of ammunition. Consistently, at least 70 percent of Americans said they favor background checks. Often, far more do. In October, a CBS News/New York Times poll found that 92 percent of Americans — including 87 percent of Republicans — favor background checks for all gun buyers.1

Without much hope of getting a gun-control measure through Congress (a Democratic-controlled Senate couldn’t muster enough support to prevent a filibuster of a proposed expansion of background checks in 2013, a few months after the Newtown school shooting), Obama isn’t proposing anything as extensive as the kinds of background checks Americans have been polled about. According to a fact sheet released Monday evening by the White House, the Bureau of Alcohol, Tobacco, Firearms and Explosives plans to clarify — and in many cases expand — the definition of being “engaged in the business” of selling guns, which is the criterion that determines whether a seller must get a federal license and, therefore, must check the backgrounds of would-be buyers.

Thousands of guns are available for sale over the Internet to buyers who do not have to undergo background checks, because the sellers are not considered regular dealers. Under the White House plan, people who sell only at gun shows or exclusively online might need to be licensed, and “there is no specific threshold number of firearms purchased or sold that triggers the licensure requirement,” according to the fact sheet. (Possible criteria for what would trigger the requirement were proposed in reports last fall by the pro-gun-control groups Everytown for Gun Safety and the Center for American Progress; opponents of gun control have promised to sue to block the executive action.)

The White House also is proposing other measures to curb gun violence, such as stepping up enforcement of existing laws and increasing state reporting into the background-check system of people with mental-health issues that prohibit them from buying guns. But expanding background checks is the lead item in the White House’s blog post on Obama’s executive actions, in its fact sheet, in Obama’s tweet summarizing his actions and in several news articles.

The popularity of background checks transcends age, political party, gender, education and even gun ownership. Last month, Quinnipiac University asked Americans whether they support a law requiring background checks for sales at gun shows or online. At least 84 percent of every one of 15 subgroups — including Republicans, men, gun owners and people living in rural areas — said “yes.”

“It’s very hard in our partisan environment to find anything that 80 percent to 90 percent of people support,” Arkadi Gerney, a senior fellow at the Center for American Progress who formerly ran former New York City Mayor Michael Bloomberg’s group, Mayors Against Illegal Guns, said in a telephone interview Monday.

So how can Jennifer Baker, a spokeswoman for the National Rifle Association, have been right when she said on Saturday, in a pre-emptive response to the forthcoming White House measures, that “the majority of Americans oppose more gun control”? (The NRA didn’t immediately respond to our request for comment Monday evening.) Because Americans’ responses to polls on guns aren’t always internally consistent. For instance, in that same Quinnipiac poll last month, half of respondents said they oppose stricter gun laws in the U.S. — meaning that a significant proportion of people who said they backed a law requiring background checks said they oppose stricter gun laws.

That’s partly because stricter gun laws could include a wide range of measures, some far less popular than background checks. For instance, since 1959, Gallup has asked whether people think there should be a law banning possession of handguns except by police and other authorized persons. Although 60 percent of people said “yes” when the question was first asked and at least 40 percent agreed in most subsequent polls until passage of the Brady Bill in 1993, lately just a quarter of respondents back a total ban.

No major party or official is calling for a total handgun ban today, but even some more limited measures that once enjoyed broad support now bitterly divide voters. From just before the assault-weapon ban was enacted in 1994 until soon after its expiration in 2004, it consistently drew support of 60 percent of Americans or more. Lately, though, its popularity has declined — so much so that more Americans opposed it than supported it in two December polls.

#### CP doesn’t link to politics—not nearly as controversial. Views on gun control are split but only 27% support the aff.

Gallup 14 [Gallup, Inc., Less Than Half of Americans Support Stricter Gun Laws, Gallup, 10-31-2014, Accessible Online at http://www.gallup.com/poll/179045/less-half-americans-support-stricter-gun-laws.aspx] SW 1-17-2016

WASHINGTON, D.C. -- Less than half of Americans, 47%, say they favor stricter laws covering the sale of firearms, similar to views found last year. But this percentage is significantly below the 58% recorded in 2012 after the school shooting in Newtown, Connecticut, spurred a nationwide debate about the possibility of more stringent gun control laws. Thirty-eight percent of Americans say these laws should be kept as they are now, and 14% say they should be made less strict.

Laws Covering the Sale of Firearms -- Americans' Preferences Since 2000

The percentage favoring stricter gun sale laws in the two years since Newtown occurred has declined despite steady and tragic high-profile shootings in the U.S at schools, malls and businesses. This past week, shootings occurred at a Seattle-area school and of police officers in Sacramento and Placer County, California. Amidst events like these in 2014, and the resulting calls for stricter gun sale laws, the 47% who favor stricter laws is just above the historical low of 43% measured in 2011.

Ten years ago, three in five Americans (60%) said they favored stricter laws regulating the sale of firearms, but support fell to 44% in 2009 and remained at that level in polls conducted in the next two years. Days after the Newtown shooting, support for stricter gun sale laws swelled. Since 2012, however, Americans have retreated from those stronger attitudes about the need for more gun control, and the percentage of Americans who say the laws should be less strict -- although still low -- has edged up.

These findings come from a new Gallup Poll Social Series survey, conducted Oct. 12-15.

Americans Say Possessing Handguns Should Not Be Banned

As support for stricter laws regulating the sale of guns has dwindled, the percentage of Americans who say handguns should be banned has remained low. About one in four Americans say handgun possession should be banned for everyone except the police and "other authorized persons" such as security or the military. A near-record high of 73% of Americans now say that handguns should not be banned.

### Rollback [Volokh]

#### Courts will strike down total bans, but regulations are upheld

Volokh 10 [Eugene Volokh (professor of law at the University of California, Los Angeles), "An End to Gun Bans," NY Times, 3/2/2010] AZ

Of the 50 states, 44 have state constitutional provisions that expressly secure a [right to keep and bear arms](http://www.trolp.org/main_pgs/issues/v11n1/Volokh.pdf) . At least 40 of them clearly protect an individual right, aimed partly at self-defense. But less stringent gun control laws may survive. Yet state courts interpreting those provisions have upheld the great majority of all modest gun controls that they have considered. They have struck down some total gun bans, and some other restrictions that dramatically affect people’s abilities to defend themselves. But less stringent restrictions have almost always been upheld. Likewise, federal courts applying D.C. v. Heller have upheld the great majority of the restrictions that they have considered, including all of the less stringent ones. Thus, for instance, courts have upheld bans on particular kinds of semi-automatic firearms (so-called “assault weapons”) precisely because the bans left people free to own many different kinds of other handguns, rifles, and shotguns that were just as effective for self-defense. The same seems likely to happen with federal review of state and local gun bans, if the U.S. Supreme Court concludes that the Second Amendment — like the First Amendment, the Fourth Amendment, and most of the rest of the Bill of Rights — applies to the states via the Fourteenth Amendment. Total handgun bans would be struck down. The same might happen to some of the most restrictive gun controls, such as laws banning gun possession by non-citizens (even ones who legally live in the U.S.). But less stringent gun controls, whether or not wise as a matter of policy, are almost certain to be upheld.

## XO

### 1NC – Regular

#### Counterplan: The president of the United States should [insert text]

#### It's feasible and solves

Eilperin 16 [Juliet Eilperin (Washington Post’s White House bureau chief), "Obama plans curbs on guns," Washington Post, 1/1/2016] AZ

President Obama will press ahead with a set of executive actions on guns next week despite growing concerns in the United States over terrorism that have dampened some Americans’ enthusiasm for tighter firearms restrictions. The president will meet Monday with Attorney General Loretta E. Lynch to finalize a series of new gun control measures and will announce his package of proposals soon after, according to several individuals who spoke on the condition of anonymity because the plan is not yet public. One of the main proposals Obama is poised to adopt would require some unlicensed gun dealers to get licenses and conduct background checks on potential buyers. The change is aimed at informal dealers, such as those who sell online frequently or rent tables at gun shows but do not have a storefront. Obama began examining how he could tighten the nation’s gun rules after October’s mass shooting at Umpqua Community College in Roseburg, Ore. Administration lawyers have spent months reviewing various proposals to make sure they can withstand legal challenges. The idea of requiring informal gun dealers to obtain a license from the Bureau of Alcohol, Tobacco, Firearms and Explosives and of conducting background checks came up two years ago when White House officials drafted a proposal for dealers who sell at least 50 guns annually. The idea was shelved because of legal concerns but gained new momentum after the Roseburg shooting. At that point, Democratic presidential candidate Hillary Clinton said she would pursue such a requirement by executive action if elected. Administration officials gave the proposal another look and determined it could be done in a way that was legally defensible. The White House review has been conducted in relative secrecy, soliciting input from gun safety groups without specifying which policies the administration might ultimately adopt. In the past month, Obama has met with former representative Gabrielle Giffords (D-Ariz.), who was gravely injured in a 2011 mass shooting, and her husband, Mark Kelly, and with former New York City mayor Michael R. Bloomberg and the president of Everytown for Gun Safety, which Bloomberg helped start. In Obama’s weekly radio address, released a day earlier than usual, the president said he was moving unilaterally because Congress had failed to address the growing problem of gun violence. “A few months ago, I directed my team at the White House to look into any new actions I can take to help reduce gun violence,” he said. “And on Monday, I’ll meet with our attorney general, Loretta Lynch, to discuss our options. “Because I get too many letters from parents, and teachers, and kids to sit around and do nothing,” Obama continued. “I get letters from responsible gun owners who grieve with us every time these tragedies happen; who share my belief that the Second Amendment guarantees a right to bear arms; and who share my belief we can protect that right while keeping an irresponsible, dangerous few from inflicting harm on a massive scale.”

### 1NC – Small

#### Counterplan text: The president of the United States should require all federal agencies to submit relevant data to the national gun backgrounds check database, direct the Justice Department to prioritize prosecution of criminals who violate background checks, restructure the ATF, and increase accountability regarding regulation of gun trafficking.

Webster 13 [Daniel Webster, Jon Vernick, "Reducing Gun Violence in America," Center for Gun Policy and Research, Johns Hopkins Bloomberg School of Public Health, 2013] AZ

But there are other steps President Obama can take without congressional approval— any time he chooses, with the stroke of a pen. Vice President Biden understands this, and we hope his recommendations will include at least these next four steps that we’ve urged him to take. In the first of these four steps, the president can order all federal agencies to submit their relevant data to the national gun background check database. Every missing record is a potential murder in the making. If the data aren’t in the database, those people that use the database don’t get what they need, allowing gun sales to go ahead in cases where we all agree— and federal law says— they shouldn’t. Second, the president can direct the Justice Department to make a priority of prosecuting convicted criminals who provide false personal information during gun purchase background checks. Yes, even criminals buy from dealers, knowing there’s going to be a background check, except that they lie when they do so. As a matter of fact, during 2010 there were more than 76,000 cases referred by the FBI to the Justice Department. Do you know how many were prosecuted out of 76,000 in 2010, the last year for which we have data? Forty- four. Not 44,000, but 44 out of 76,000. This is a joke. It’s a sad joke, and it’s a lethal joke. These are felony cases involving criminals trying to buy guns, and yet our federal government is prosecuting less than one- tenth of one percent of them. It is shameful, and it has to end, and the president can do that by just picking up the phone and saying to the Justice Department: This is your job, go do it or I’ll get somebody that will. As a third step, the president can make a recess appointment to get someone to head the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives. The ATF, as it’s called, hasn’t had a director for six years. Can you imagine how much outrage there’d be if we’d been without a Homeland Security Secretary for six years? You can’t have an agency without somebody running it that’s going to allow it to do the job for which it was, and that job is to protect everyone in this city, state, and country— including those we love the most, our children, and those we have the greatest responsibility to, the police officers who run into danger when the rest of us are running the other way. The president, and this is our fourth recommendation, can stop supporting what’s called the Tiahrt order. Todd Tiahrt is a congressman from Wichita who got the Congress to pass a law that keeps the public in the dark about who gun traffickers are and how they operate. There can be no excuse for shielding criminals from public view.

### Avoids Politics

#### No PC loss

Sovacool 09 (Benjamin, Research Fellow in the Energy Governance Program at the Centre on Asia and Globalization and Assistant Professor at the Lee Kuan Yew School of Public Policy at the National University of Singapore, “Preventing National Electricity-Water Crisis Areas in the United States”, Columbia Journal of Environmental Law, 2009)

Executive Orders also save time in a second sense. The President does not have to expend scarce political capital trying to persuade Congress to adopt his or her proposal. Executive Orders thus save presidential attention for other topics. Executive Orders bypass congressional debate and opposition, along with all of the horse-trading and compromise such legislative activity entails. n292

#### The threat of executive order alone spurs congress into action - no need for bargaining

Fine 12 (Jeffrey, assistant professor of political science at Clemson University, Presidential Studies Quarterly, "Circumventing Adversity: Executive Orders and Divided Government" June 2012)

We also should expect presidents to prioritize and be strategic in the types of executive orders that they create to maneuver around a hostile Congress. There are a variety of reasons that can drive a president’s decision. For example, presidents can use an executive order to move the status quo of a policy issue to a position that is closer to their ideal point. By doing so, presidents are able to pressure Congress to respond, perhaps by passing a new law that represents a compromise between the preferences of the president and Congress. Forcing Congress’s hand to enact legislation might be a preferred option for the president, if he perceives Congress to be unable or unwilling to pass meaningful legislation in the ﬁrst place. While it is possible that such unilateral actions might spur Congress to pass a law to modify or reverse a president’s order, such responses by Congress are rare (Howell 2003, 113-117; Warber 2006, 119). Enacting a major policy executive order allows the president to move the equilibrium toward his preferred outcome without having to spend time lining up votes or forming coalitions with legislators. As a result, and since reversal from Congress is unlikely, presidents have a greater incentive to issue major policy orders to overcome legislative hurdles.

#### Unilateral actions avoid the politics DA – three reasons

Moe & Howell 99 (Terry M. Moe, William G. Howell, Howell is a graduate student in political science at Stanford University , Moe is a professor of political science at Stanford University and a senior fellow at the Hoover Institution<http://home.uchicago.edu/~whowell/papers/UnilateralAction.pdf>, ) //RH

The president’s base of independent authority, in fact, is enormously enhanced rather than compromised by the executive nature of the job: First, because presidents are executives, the operation of government is in their hands. As an inherent part of their job, they manage, coordinate, staff, collect information, plan, reconcile conflicting values, and respond quickly and flexibly to emerging problems. These activities are what it means, in practice, to have the executive power, and they give presidents tremendous discretion in the exercise of governmental authority. The opportunities for presidential imperialism are too numerous to count. When presidents feel it is in their political interests, they can put whatever decisions they like to strategic use, both in gaining policy advantage and in pushing out the boundaries of their power. Second, because presidents are executives, they have at their disposal a tremendous reservoir of expertise, experience, and information, both in the institutional presidency and in the bureaucracy at large. These are critical resources the other branches can never match, and they give presidents a huge strategic advantage—in the language of agency theory, an information asymmetry of vast proportions—in UNILATERAL ACTION AND PRESIDENTIAL POWER  855 856  PRESIDENTIAL STUDIES QUARTERLY pursuing the myriad opportunities for aggrandizement that present themselves in the course of governmental decision making. Third, and finally, there is a key advantage that is often overlooked. Because presidents are executives, and because of the discretion, opportunities, and resources available to them, they are ideally suited to be first movers and to reap the agenda powers that go along with it. If they want to shift the status quo by taking unilateral action on their own authority, whether or not that authority is clearly established in law, they can simply do it—quickly, forcefully, and (if they like) with no advance notice. The other branches are then presented with a fait accompli, and it is up to them to respond. If they are unable to respond effectively, or decide not to, presidents win by default. And even if they do respond, which could take years, presidents may still get much of what they want anyway.

### A2 Rollback

#### Durable fiat is reciprocal if the aff gets to fiat the plan won't be rolled back the negative should get to do the same - that's also good for education, ensures the debate remains centered around the desirability of the plan's mechanism instead of its workability

#### Executive Orders are widely accepted by the courts and face little risk of overturn

**Moe and Howell 99** (Terry, Sanford University political science professor and WG, Harris School of Public Policy political science professor, “The Presidential power of Unilateral Action,” 1999, Oxford Journal of Law, Economics, and Organization)

In this article we highlight a formal basis for presidential power that has gone largely unappreciated to this point, but has become so pivotal to presidential leadership and so central to an understanding of presidential power that it virtually defines what is distinctively modern about the modern presidency. This is the president's formal capacity to act unilaterally and thus to make law on his own. Our central purpose is to set out a theory of this aspect of presidential power. We argue that the president's powers of unilateral action are a force in American politics precisely because they are not specified in the Constitution. They derive their strength and resilience from the ambiguity of the contract. We also argue that presidents have incentives to push this ambiguity relentlessly to expand their own powers - and that, for reasons rooted in the nature of their institutions, neither Congress nor the courts are likely to stop them. We are currently in the midst of a research project to collect comprehensive data for testing this theory - data on what presidents have done, as well as on how Congress and the courts have responded. Here we provide a brief history of unilateral action, with special attention to the themes of our theoretical argument. We also make use of some early data to emerge from our project. For now it appears that the theory is well supported by the available evidence. This is a work in progress, however, and more is clearly needed before definitive conclusions can be justified.

#### Congress isn't willing to reign in "imperial" presidents

**Howell 03** (William, Sydney Stein Professor in American Politics at the University of Chicago, “Powers without Persuasion: The Politics of Direct Presidential Action,” 2003, JSTOR)

The real world, obviously, is much more complicated than the unilateral politics model supposes. Uncertainties abound, and presidents frequently set policies without any assurance of congressional acquiescence. It is worth considering then, how presidents fare on those occasions when Congress does respond to a presidential directive. Do presidents tend to win most of the time? Or does Congress consistently crack the legislative whip, effectively enervating imperialistic presidents? Our theoretical expectation are relatively clear. Because the president has access to more (and better) information about goings-on in the executive branch, members of Congress will try to change only a small fraction of all status quo policies in any legislative session, and we should anticipate that members will leave alone the majority of unilateral directives that the president issues. While the president may occasionally overreach on a particularly salient issue, provoking a congressional response, in most instances Congress either will do nothing at all or will endorse the president’s actions’.

### A2 Congress Override

#### Congress rarely overrides unilateral actions

Huder 15, (2-23-2015, Joshua Huder is a senior fellow at the Government Affairs Institute at Georgetown University, earning a PhD at University of Florida in American politics "DHS dispute: Why Congress rarely curtails presidential unilateral actions (+video)," <http://www.csmonitor.com/USA/Politics/Politics-Voices/2015/0223/DHS-dispute-Why-Congress-rarely-curtails-presidential-unilateral-actions-video>,) //RH

Institutional power is more of an academic topic. Nonetheless, it has enormous ramifications. The current immigration debate is a great example of that. Despite the rhetoric around the Department of Homeland Security funding debate, America has never had a dictator president – the current president included. However, the fight for power in the separation of powers (i.e. How big should the presidency be?) is real. The DHS/immigration debate is an interesting look into that struggle. Much of the modern presidency’s power stems from the type of actions we are observing in the immigration debate. Reinterpreting existing law, exercising discretion on the many responsibilities under the purview of the executive branch, or writing orders and directives, presidents have ample opportunity and authority to reshape national policy unilaterally. These actions pale in comparison to actually creating law, as Congress does, but they are important nonetheless. And while Obama’s immigration action falls within precedents set by former presidents, Congress is well within its constitutional rights to correct presidential overreach. However, Congress rarely curtails presidential unilateral actions. There have been several attempts but few are successful. The best attempt was the 1974 Budget Control and Impoundment Act, establishing the modern budget process. After Nixon impounded congressionally appropriated funds, Congress established processes and deadlines to take back budgetary control. It also established a reconciliation process that could circumvent filibusters to restore budget harmony. That process could be used to respond to executive actions if those actions fail to follow congressional intent As we see today, even Congress’s most powerful tool cannot address executive action. It would take some creative legislative drafting in order to use reconciliation to reverse Obama’s immigration action, which prohibits provisions that have no budgetary effect. Which means today’s congressional stalemate boils down to one of two possibilities: either Republicans cannot use reconciliation to reverse Obama's executive actions or – because the reconciliation process only allows a limited amount of bills per year – they plan on using it for another purpose. This is the problem Republicans currently face. They cannot circumvent the supermajority requirements of the process. Even if they could, there is no guarantee Republicans could find a Senate majority once the symbolic nature of the cloture vote was removed from the scenario. Should three moderate or border Republicans join Sen. Dean Heller (R) of Nevada in blocking the bill, Congress’s response would still be deadlocked. Historically Congress’s power has been hampered by its own processes and the political realities of forging majority coalitions. It’s often very difficult to pass bills through both chambers. It’s particularly challenging to find majorities to challenge unilateral executive actions that fall within the previously accepted scope of executive authority. It’s nearly impossible to find a supermajority to do that. Without a Watergate-like scandal, where illegal actions clearly occurred, Congress rarely has the ability to tame America’s 80-year tradition of expansive executives. The ambiguity of Article II means that presidential power is open to interpretation, which is another way of saying that presidents’ unilateral power is mostly anything that Congress has not expressly prohibited. Given the inherent difficulties of lawmaking and the supermajority processes that have always existed in Congress, historically those prohibitions have been scarce. As Jon Bernstein points out, every modern president overreaches at some point. With a hamstrung legislative branch, that’s likely to continue.